

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Appropriate Framework for)
Broadband Access to the)
Internet Over Wireline)
Facilities)

GN Docket No. 02-33

**COMMENTS OF
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It is with great interest that I forward these comments to the Federal Communications Commission, regarding the future deployment of broadband capability via wireline services. In my position as Chair of the New York State Standing Committee on Corporations, Authorities and Commissions, I recognize the importance of stimulating the robust deployment of technology and maintaining the ability of states to insure that goal is reached.

Despite the promise of the Telecommunications Act of 1996 and its reliance on the promise of unfettered growth of the telecommunications marketplace, market failure has spread beyond the so-called underserved and high cost areas to encompass and restrain the growth of information services everywhere. The FCC is addressing the issue of high speed access to the Internet at a time of widespread inability to provide this access to the so-called "last mile". Demanded information technologies are being choked because of the limitations in the ability of hardwire in the local loop to provide the information capacity in a timely manner. Despite the success of the cable television industry in providing a high speed portal to the Internet, its basic architecture does not lend itself to the robust high speed switched network. Such a network is necessary and will free information technologies to migrate to those best equipped to create and/or originate material for new uses by the general public.

To that end, we must turn to new methods to stimulate the deployment of broadband in a ubiquitous and timely way. The quandary that the federal government finds itself in is how to accomplish the next stage of infrastructure development as the momentum gained from the '96 Act slows. As Chair of the Committee that with jurisdiction over telecommunications in the Assembly of the State of New York, I will confine my remarks to emphasize the important role that states will continue to have in this process. Any short-term solution to stimulate broadband deployment should not in any way reduce or inhibit that role.

States have an ongoing interest in insuring that communities have unfettered access to new interactive services available from a high speed network. This network must be made available to all segments of the state's population at roughly the same time. The cable industry has utilized its franchise authority to upgrade its plant to begin to provide high speed information services over its cable platform. At the same time, this industry has utilized the marketplace to "cluster" and better position itself to service regions that contain overlapping franchise authority to single cable operators. For incumbent local telephone operators, the ability to offer high speed services within their service territory is limited by Local Access and Transport Area (LATA) rules that are designed to insure long distance competition in voice telephony.

Section 271 of the '96 Act created a procedure to allow for the local incumbent to offer long distance service, after meeting a checklist for reasonable and timely interconnection to the local network for those who wished to offer their own branded local service. New York State was the first to allow the local exchange carrier (LEC) the ability to market long distance service. The New York State Public Service Commission authorized these activities only after a comprehensive testing period was completed that was spurred by the insistence of my predecessor in this chairmanship, the Hon. Albert Vann. The testing model created by the New York State Public Service Commission has been duplicated by many other states in order to insure that real world interconnection among providers is just that--real.

The difficulty companies found in developing compliance protocols that met the section 271 checklist underscores the potential problem that can be created by granting the incumbent local exchange carriers LATA relief to build broadband networks without considering the impact on local telephone competition. The consideration of whether indeed, the LEC's would even bother pursuing the section 271 requirements for the ability to offer long distance voice

telephony was often missing from the equation. Given that problem, I would only support LATA relief to the extent that it is targeted to maintain regulatory equality across all competing providers offering broadband services.

In that light, the FCC must insist that LEC's have their broadband relief tied to compliance with their section 271 responsibilities. State governments are best equipped to design regulatory strategies to compel such compliance. In addition, states must be able to monitor the deployment of broadband by incumbent utilities to insure that underserved, rural and high cost areas are receiving deployment of advanced infrastructure in a reasonable manner. It will also be of greater importance to insure quality consumer service to those that utilize broadband infrastructure. Inordinate delay in provision of the service or repeated problems with an installed service can destroy the very core of economic developments this society envisions and needs through high speed interactive information services.

There are many other areas I would like to reserve the right to comment in the future as the commentary regarding telecommunications issues take fuller shape. However, the brevity of this statement is an effort to avoid duplication in testimony before the Commission for consideration. Suffice it to say clearly, I believe that continued state oversight of the deployment and operation of telecommunications networks is a critical function of the public responsibilities of the states.